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**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

DIANA M. ELLIOTT, PH.D.
18000 Studebaker Road, Suite 700
Cerritos, CA 90703

Psychologist License No. PSY 12612

Respondent.

Case No. W272

OAH No. L2004050105

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Psychology, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 25, 2005.

It is so ORDERED May 26, 2005.

Jacqueline B. Horn, Ph.D.

FOR THE BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
Jacqueline B. Horn, Ph.D.
President, Board of Psychology

1 BILL LOCKYER, Attorney General
of the State of California
2 RICHARD D. HENDLIN, State Bar No. 76742
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
P.O. Box 85266
5 San Diego, CA 92186-5266
Telephone: (619) 645-2071
6 Facsimile: (619) 645-2061

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 DIANA M. ELLIOTT, PH.D.
18000 Studebaker Road, Suite 700
Cerritos, CA 90703

14 Psychologist License No. PSY 12612

15 Respondent.

Case No. W272

OAH No. L2004050105

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board
22 of Psychology. He brought this action solely in his official capacity and is represented in this
23 matter by Bill Lockyer, Attorney General of the State of California, by Richard D. Hendlin,
24 Deputy Attorney General.

25 2. Respondent Diana M. Elliott, Ph.D. (Respondent) is represented in this
26 proceeding by attorney Raymond J. McMahon, with the law firm of Bonne, Bridges, Mueller,
27 O'Keefe & Nichols, whose address is 1750 E. Fourth Street, Suite 450, Santa Ana, CA
28 92705-3930, and whose telephone number is (714) 480-2540.

3. On or about March 6, 1992, the Board of Psychology issued Psychologist License No. PSY 12612 to Diana M. Elliott, Ph.D. (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. W272 and will expire on May 31, 2005, unless renewed.

JURISDICTION

4. Accusation No. W272 was filed before the Board of Psychology (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 12, 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. W272 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. W272. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits she committed repeated acts of negligence in violation of Business and Professions Code section 2960(r) as alleged in Accusation No. W272. She denies all other charges and allegations of the Accusation.

9. Respondent agrees that her Psychologist License is subject to discipline and she agrees to be bound by the Board of Psychology's [Board] imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Psychology. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Psychology may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Psychologist License No. PSY 12612 issued to Respondent Diana M. Elliott, Ph.D. (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

///

1 1. PSYCHOLOGICAL EVALUATION Within 90 days of the effective date
2 of this Decision and on a periodic basis thereafter as may be required by the Board or its
3 designee, respondent shall undergo a psychological evaluation (and psychological testing, if
4 deemed necessary) by a Board-appointed California-licensed psychologist. Respondent shall
5 sign a release which authorizes the evaluator to furnish the Board a current DSM IV diagnosis
6 and a written report regarding the respondent's judgment and/or ability to function independently
7 as a psychologist with safety to the public, and whatever other information the Board deems
8 relevant to the case. The completed evaluation is the sole property of the Board. The evaluation
9 should not be disclosed to anyone not authorized by the Board or by court order.

10 If the Board concludes from the results of the evaluation that respondent is unable
11 to practice independently and safely, respondent shall immediately cease accepting new patients
12 and, in accordance with professional standards, shall appropriately refer/terminate existing
13 patients within 30 days and shall not resume practice until a Board-appointed evaluator
14 determines that respondent is safe to practice. During this suspension period, probation will be
15 tolled and will not commence again until the suspension is concluded.

16 If ongoing psychotherapy is recommended in the psychological evaluation, the
17 Board will notify respondent in writing to submit to such therapy and to select a psychotherapist
18 for approval by the Board or its designee within 30 days of such notification. The therapist shall
19 1) be a California-licensed psychologist with a clear and current license; and 2) have no previous
20 business, professional, personal or other relationship with respondent; except that the Board will
21 approve respondent to undergo psychotherapy with Janet L. Sonne, Ph.D. Frequency of
22 psychotherapy shall be determined upon recommendation of the treating psychotherapist with
23 approval by the Board or its designee; however, psychotherapy shall, at a minimum, consist of
24 one one-hour session per week. Respondent shall continue psychotherapy until released by the
25 approved psychologist and approved by the Board or its designee. The Board or its designee may
26 order a re-evaluation upon receipt of the therapist's recommendation.

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1 Respondent shall execute a release authorizing the therapist to provide to the
2 Board any information the Board or its designee deems appropriate, including quarterly reports of
3 respondent's therapeutic progress. Respondent shall furnish a copy of this Decision to the
4 therapist. If the therapist determines the respondent cannot continue to independently render
5 psychological services, with safety to the public, he/she shall notify the Board immediately.

6 Respondent shall pay all costs associated with the psychological evaluation and
7 ongoing psychotherapy. Failure to pay costs will be considered a violation of the probation
8 order.

9 2. NOTIFICATION TO EMPLOYER Respondent shall provide each of her
10 employers where respondent is providing psychological services, if any, a copy of this Decision
11 and the Accusation or Statement of Issues before commencing employment. Notification to the
12 respondent's current employer shall occur no later than the effective date of the Decision.
13 Respondent shall submit, upon request by the Board or its designee, satisfactory evidence of
14 compliance with this term of probation.

15 3. EXAMINATION(S) Respondent shall take the California Jurisprudence
16 and Professional Ethics Examination (CJPEE) within 90 days of the effective date of the
17 decision. If respondent fails such examination, respondent shall immediately cease accepting
18 new patients and, in accordance with professional standards, shall appropriately refer/terminate
19 existing patients within 30 days and shall not resume practice until the re-examination has been
20 successfully passed, as evidenced by written notice to respondent from the Board or its designee.
21 During this period of non-practice, probation shall be tolled and will not commence again until
22 the suspension is completed. It is respondent's responsibility to contact the Board in writing to
23 make arrangements for such examination. Respondent shall pay the established examination
24 fee(s).

25 4. COURSE WORK Respondent shall take and successfully complete
26 course work of not less than twelve (12) hours for each year of probation in the areas of forensic
27 psychology, and the administration and reporting of tests. Course work must be preapproved by
28 the Board or its designee. All course work shall be taken at the graduate level at an accredited

1 educational institution or by an approved continuing education provider. Classroom attendance
2 is specifically required; correspondence or home study course work shall not count toward
3 meeting this requirement. The course work must be in addition to any continuing education
4 courses that may be required for license renewal.

5 Within 90 days of the effective date of this Decision, respondent shall submit to
6 the Board or its designee for its prior approval a plan for meeting the educational requirements.
7 All costs of the course work shall be paid by the respondent.

8 5. ETHICS COURSE Within 90 days of the effective date of this Decision,
9 respondent shall submit to the Board or its designee for prior approval a course in laws and ethics
10 as they relate to the practice of psychology. Said course must be successfully completed at an
11 accredited educational institution or through a provider approved by the Board's accreditation
12 agency for continuing education credit. Said course must be taken and completed within one
13 year from the effective date of this Decision. The cost associated with the law and ethics course
14 shall be paid by the respondent.

15 6. INVESTIGATION/ENFORCEMENT COST RECOVERY Respondent
16 shall pay the Board its costs of investigation and enforcement in the amount of Three Thousand
17 Five Hundred Dollars (\$3,500.00) within the first two years of probation. Such costs shall be
18 payable to the Board of Psychology and are to be paid regardless of whether the probation is
19 tolled. Failure to pay such costs shall be considered a violation of probation.

20 The filing of bankruptcy by respondent shall not relieve respondent of the
21 responsibility to repay investigation and enforcement costs.

22 7. PROBATION COSTS Respondent shall pay the costs associated with
23 probation monitoring each and every year of probation. Such costs shall be payable to the Board
24 of Psychology at the end of each fiscal year (June 30). Failure to pay such costs shall be
25 considered a violation of probation.

26 The filing of bankruptcy by respondent shall not relieve respondent of the
27 responsibility to repay probation monitoring costs.

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1 8. OBEY ALL LAWS Respondent shall obey all federal, state, and local
2 laws and all regulations governing the practice of psychology in California including the ethical
3 guidelines of the American Psychological Association. A full and detailed account of any and all
4 violations of law shall be reported by the respondent to the Board or its designee in writing
5 within seventy-two (72) hours of occurrence.

6 9. QUARTERLY REPORTS Respondent shall submit quarterly
7 declarations under penalty of perjury on forms provided by the Board or its designee, stating
8 whether there has been compliance with all the conditions of probation. Quarterly reports
9 attesting to non-practice status are to be submitted if probation is tolled.

10 10. PROBATION COMPLIANCE Respondent shall comply with the Board's
11 probation program and shall, upon reasonable notice, report to the Board of Psychology
12 probation monitor. Respondent shall contact the assigned probation monitor regarding any
13 questions specific to the probation order. Respondent shall not have any unsolicited or
14 unapproved contact with 1) complainants associated with the case; 2) Board members or
15 members of its staff; or 3) persons serving the Board as expert evaluators.

16 11. INTERVIEW WITH BOARD OR ITS DESIGNEE Respondent shall
17 appear in person for interviews with the Board or its designee upon request at various intervals
18 and with reasonable notice.

19 12. CHANGES OF EMPLOYMENT Respondent shall notify the Board in
20 writing, through the assigned probation monitor, of any and all changes of her employment as a
21 psychologist, location, and address within 30 days of such change.

22 13. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
23 STATE NON-PRACTICE In the event respondent should leave California to reside or to
24 practice outside the State, or for any reason should respondent stop practicing psychology in
25 California, respondent shall notify the Board or its designee in writing within ten days of the
26 dates of departure and return or the dates of non-practice within California. Non-practice is
27 defined as any period of time exceeding thirty days in which respondent is not engaging in any
28 activities defined in Sections 2902 and 2903 of the Business and Professions Code. During

1 periods of non-practice, the probationary period is tolled and respondent's license or registration
2 shall be placed on inactive status. The probationary period will not commence again until
3 respondent activates his or her license and resumes practicing psychology in the state of
4 California. However, the Board may require respondent to complete certain terms of probation
5 that are not associated with active practice and respondent will be required to pay cost recovery
6 and restitution as ordered.

7 14. EMPLOYMENT AND SUPERVISION OF TRAINEES If respondent is
8 licensed as a psychologist, she shall not employ or supervise or apply to employ or supervise
9 psychological assistants, interns or trainees during the course of this probation. Any such
10 supervisorial relationship in existence on the effective date of this probation shall be terminated
11 by respondent and/or the Board.

12 15. FUTURE REGISTRATION OR LICENSURE If respondent is registered
13 as a psychological assistant or registered psychologist and subsequently obtains other
14 psychological assistant or registered psychologist registrations or becomes licensed as a
15 psychologist during the course of this probationary order, this Decision shall remain in full force
16 and effect until the probationary period is successfully terminated. Future registrations or
17 licensure shall not be approved, however, until respondent is currently in compliance with all of
18 the terms and conditions of probation.

19 16. VIOLATION OF PROBATION If respondent violates probation in any
20 respect, the Board may, after giving respondent notice and the opportunity to be heard, revoke
21 probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to
22 Revoke Probation is filed against respondent during probation, the Board shall have continuing
23 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
24 is final. No Petition for Modification or Termination of Probation shall be considered while
25 there is an Accusation or Petition to Revoke Probation pending against respondent.

26 17. COMPLETION OF PROBATION Upon successful completion of
27 probation, respondent's license shall be fully restored.

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04/11/2005

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Dept. of Justice - 917144802585

NO.207

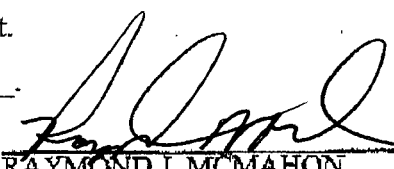
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Raymond J. McMahon. I understand the stipulation and the effect it will have on my Psychologist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Psychology.

DATED: 13 April 2005
DIANA M. ELLIOTT, Ph.D.
Respondent

I have read and fully discussed with Respondent Diana M. Elliott, Ph.D. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: April 14, 2005
RAYMOND J. MCMAHON
Attorney for RespondentENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Psychology of the Department of Consumer Affairs.

DATED: April 21, 2005BRIJ L. LOCKYER, Attorney General
of the State of California
RICHARD D. HENDLIN
Deputy Attorney General

Attorneys for Complainant

DCJ Matter ID: SD2004AD0042

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Exhibit A
Accusation No. W272

BILL LOCKYER, Attorney General
of the State of California
RICHARD D. HENDLIN, State Bar No. 76742
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
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P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2071
Facsimile: (619) 645-2061

Attorneys for Complainant

BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. W272

DIANA M. ELLIOTT, PH.D.
18000 Studebaker Rd. #700
Cerritos, CA 90703

ACCUSATION

Psychologist License
No. PSY 12612

Respondent.

Complainant alleges:

PARTIES

1. Thomas S. O'Connor (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Psychology, Department of Consumer Affairs.

2. On or about March 6, 1992, the Board of Psychology issued Psychologist License No. PSY 12612 to Diana M. Elliott, Ph.D. (Respondent). The Psychologist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2005, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Psychology (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2960 of the Code states:

The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public. ,

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

1 (i) Violating any rule of professional conduct promulgated by the board and set
2 forth in regulations duly adopted under this chapter.

3 (j) Being grossly negligent in the practice of his or her profession.

4 (k) Violating any of the provisions of this chapter or regulations duly adopted
5 thereunder.

6 (l) The aiding or abetting of any person to engage in the unlawful practice of
7 psychology.

8 (m) The suspension, revocation or imposition of probationary conditions by
9 another state or country of a license or certificate to practice psychology or as a
10 psychological assistant issued by that state or country to a person also holding a license or
11 registration issued under this chapter if the act for which the disciplinary action was taken
12 constitutes a violation of this section.

13 (n) The commission of any dishonest, corrupt, or fraudulent act.

14 (o) Any act of sexual abuse, or sexual relations with a patient or former patient
15 within two years following termination of therapy, or sexual misconduct that is
16 substantially related to the qualifications, functions or duties of a psychologist or
17 psychological assistant or registered psychologist.

18 (p) Functioning outside of his or her particular field or fields of competence as
19 established by his or her education, training, and experience.

20 (q) Willful failure to submit, on behalf of an applicant for licensure, verification
21 of supervised experience to the board.

22 (r) Repeated acts of negligence.

23 5. Section 2964.6 of the Code states:

24 An administrative disciplinary decision that imposes terms of probation may
25 include, among other things, a requirement that the licensee who is being placed on probation
26 pay the monetary costs associated with monitoring the probation.

27 6. Section 125.3 of the Code states, in pertinent part, that the Board may
28 request the administrative law judge to direct a licensee found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
2 and enforcement of the case.

3 CAUSE FOR DISCIPLINE

4 (Gross Negligence, Dishonesty, Repeated Acts of Negligence)

5 7. Respondent is subject to disciplinary action under sections 2960 (j), (n),
6 and (r) on account of the following:

7 A. In or about July 2002, respondent was appointed as a neutral
8 evaluator concerning child custody issues involving a family which had undergone
9 divorce.

10 B. Respondent evaluated the mother, the father, and the children
11 during July 2002. In the course of her evaluation respondent gave each of the adults
12 psychological tests, including the MMPI-2. Because the father spoke Italian he had to fly
13 in from Italy and take the test through the use of an interpreter. On or about July 17,
14 2002, respondent faxed the original answer sheets to the MMPI-2 test to the Caldwell
15 Report for scoring and interpretation.

16 C. On or about July 24, 2002, respondent testified in court as to her
17 conclusions regarding issues affecting the custody of the children. In so doing, she relied
18 on her memory of the MMPI's results. Respondent's memory was faulty and her
19 testimony as to what the MMPI-2 test results showed was ultimately not supported by the
20 answer sheets she later reviewed at her office.

21 D. During August 2002, respondent was ordered by the trial court to
22 send the original answer sheets to the Caldwell Report for review by the father's expert.
23 Respondent sent copies of answer sheets represented as those originally sent to the
24 Caldwell Report. When they were compared with the originals maintained at the
25 Caldwell Report, they turned out to be different. The reports sent by respondent made the
26 mother look healthier than the original test score indicated, and made the father look
27 more disturbed than the original test score indicated. Respondent had changed the test
28 score answers.

1 8. Respondent is subject to disciplinary action under sections 2960 (j), (n),
2 and (r) in that during the course of her role as neutral evaluator for the court she committed gross
3 negligence, was dishonest, and committed repeated negligent acts, by reason of, but not limited
4 too, the following:

5 A. Respondent altered the results of the MMPI-2 test.

6 B. Respondent failed to inform the Court her testimony was based on
7 inaccurate information.

8 C. Respondent failed to inform the Court the father was administered
9 the MMPI-2 through an interpreter.

10 D. Respondent's inaccurate testimony adversely affected the ability of
11 the Court to make an assessment of the child custody issues.

12
13 PRAYER


14 WHEREFORE, Complainant requests that a hearing be held on the matters herein
15 alleged, and that following the hearing, the Board of Psychology issue a decision:

16 1. Revoking or suspending Psychologist Number PSY 12612, issued to
17 Diana M. Elliott, Ph.D.;

18 2. Ordering Diana M. Elliott, Ph.D. to pay the Board of Psychology the
19 reasonable costs of the investigation and enforcement of this case, and, if placed on probation,
20 the costs of probation monitoring;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: March 12, 2004

23
24 
25 THOMAS S. O'CONNOR
26 Executive Officer
27 Board of Psychology
28 Department of Consumer Affairs
 State of California
 Complainant

DECLARATION OF SERVICE BY CERTIFIED MAIL

In the Matter of the Accusation
against:

Diana M. Elliott, Ph.D.

No.: W272

I, the undersigned, declare that I am over 18 years of age and not a party to the within cause; my business address is 1422 Howe Avenue, Suite 22, Sacramento, California 95825. I served a true copy of the attached:

Decision and Order

by mail on each of the following, by placing same in an envelope (or envelopes) addressed (respectively) as follows:

NAME AND ADDRESS

CERT NO.

Diana M. Elliott
18000 Studebaker Road, Suite 700
Cerritos, CA 90703


7003 2260 0007 4804 9958

Raymond J. McMahon
Bonne, Bridges, Mueller, O'Keefe & Nichols
1750 E. Fourth Street, Suite 450
Santa Ana, CA 92705-3930

Richard D. Hendlin
Deputy Attorney General
California Department of Justice
110 West "A" Street, Suite 1100
San Diego, CA 92101

Each said envelope was then on, May 26, 2005, sealed and deposited in the United States mail at Sacramento, California, the county in which I am employed, as certified mail, with the postage thereon fully prepaid, and return receipt requested.

Executed on, May 26, 2005, at Sacramento, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



DECLARANT
Marsha Guzzi
Enforcement Analyst